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8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No.

2013-474

13 **CLAUDINE SOUMOY**  
3 Ray Court  
14 San Anselmo, CA 94960

**ACCUSATION**

15 **Registered Nurse License No. 163121**

Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her  
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
21 Consumer Affairs.

22 2. On or about June 15, 1965, the Board of Registered Nursing issued Registered Nurse  
23 License Number 163121 to Claudine Soumoy ("Respondent"). The Registered Nurse License  
24 was in full force and effect at all times relevant to the charges brought herein and will expire on  
25 November 30, 2014, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board of Registered Nursing ("Board"),  
28 Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code unless otherwise indicated.

2 4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent  
3 part, that the Board may discipline any licensee, including a licensee holding a temporary or an  
4 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the  
5 Nursing Practice Act.

6 5. Section 118, subdivision (b), of the Code provides that the  
7 suspension/expiration/surrender/cancellation of a license shall not deprive the Board of  
8 jurisdiction to proceed with a disciplinary action during the period within which the license may  
9 be renewed, restored, reissued or reinstated.

#### 10 RELEVANT STATUTES AND REGULATIONS

11 6. Section 2761 of the Code states:

12 "The board may take disciplinary action against a certified or licensed nurse or deny an  
13 application for a certificate or license for any of the following:

14 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

15 "(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing  
16 functions.

17 ..."

18 7. California Code of Regulations, title 16, section 1442, states:

19 "As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from  
20 the standard of care which, under similar circumstances, would have ordinarily been exercised by  
21 a competent registered nurse. Such an extreme departure means the repeated failure to provide  
22 nursing care as required or failure to provide care or to exercise ordinary precaution in a single  
23 situation which the nurse knew, or should have known, could have jeopardized the client's health  
24 or life."

25 8. California Code of Regulations, title 16, section 1443, states:

26 "As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the  
27 failure to exercise that degree of learning, skill, care and experience ordinarily possessed and  
28 exercised by a competent registered nurse as described in Section 1443.5."

9. California Code of Regulations, title 16, section 1443.5 states:

"A registered nurse shall be considered to be competent when he/she consistently demonstrates the ability to transfer scientific knowledge from social, biological and physical sciences in applying the nursing process, as follows:

"(1) Formulates a nursing diagnosis through observation of the client's physical condition and behavior, and through interpretation of information obtained from the client and others, including the health team.

"(2) Formulates a care plan, in collaboration with the client, which ensures that direct and indirect nursing care services provide for the client's safety, comfort, hygiene, and protection, and for disease prevention and restorative measures.

"(3) Performs skills essential to the kind of nursing action to be taken, explains the health treatment to the client and family and teaches the client and family how to care for the client's health needs.

"(4) Delegates tasks to subordinates based on the legal scopes of practice of the subordinates and on the preparation and capability needed in the tasks to be delegated, and effectively supervises nursing care being given by subordinates.

"(5) Evaluates the effectiveness of the care plan through observation of the client's physical condition and behavior, signs and symptoms of illness, and reactions to treatment and through communication with the client and health team members, and modifies the plan as needed.

"(6) Acts as the client's advocate, as circumstances require, by initiating action to improve health care or to change decisions or activities which are against the interests or wishes of the client, and by giving the client the opportunity to make informed decisions about health care before it is provided."

## COST RECOVERY

10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licensee to comply subjecting the license to not being

1 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
2 included in a stipulated settlement.

### 3 STATEMENT OF FACTS

4 11. At all relevant times Respondent was employed at the Kentfield Rehabilitation and  
5 Specialty Hospital ("Kentfield Rehabilitation"), a long term acute care hospital in Kentfield,  
6 California.

7 12. On July 10, 11 and 12, 2009, Respondent had assumed care for Patient A, a twenty-  
8 one year old male who had been admitted to Kentfield Rehabilitation on July 6, 2009. On  
9 admission, Patient A's physician ordered that he be connected to a Sequential Compression  
10 Device ("SCD") on each lower leg when in bed.<sup>1</sup>

11 13. On July 10, 11 and 12, 2009, Respondent initialed on Patient A's Treatment Sheet  
12 that he was wearing the SCD's during her shift. However, Patient A was not wearing the SCD's  
13 on these dates.

### 14 FIRST CAUSE FOR DISCIPLINE

15 (Gross Negligence/Incompetence – Failure to Follow Physician Order)

16 14. Respondent is subject to disciplinary action for gross negligence and/or incompetence  
17 under section Business and Professions Code section 2761(a)(1), in that she failed to follow the  
18 physician order that Patient A wear SCD's while in bed. The facts in support of this cause for  
19 discipline are set forth above in paragraphs 12 and 13.

### 20 SECOND CAUSE FOR DISCIPLINE

21 (Gross Negligence/Incompetence – False Charting)

22 14. Respondent is subject to disciplinary action for gross negligence and/or incompetence  
23 under section Business and Professions Code section 2761(a)(1), in that she falsely documented  
24

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25 <sup>1</sup> The Sequential Compression Device is a mechanical means to improve blood  
26 circulation in a bedridden patient. It consists of inflatable sleeves that are placed around the  
27 lower extremities. The sleeves are hooked up to a machine which causes the sleeves to inflate  
28 and alternatively deflate, thereby compressing the underlying deep lower leg veins. The SCD is  
prescribed to reduce the risk of a patient developing a deep vein thrombosis (blood clot), a  
potentially life-threatening condition.

1 that Patient A was wearing SCD's on July 10, 11 and 12, 2009. The facts in support of this cause  
2 for discipline are set forth above in paragraphs 12 and 13.

3 DISCIPLINARY CONSIDERATIONS

4 15. To determine the degree of discipline, if any, to be imposed on Respondent,  
5 Complainant alleges the following aggravating circumstances:

6 a. On or about August 2 and 22, 2003, Respondent was disciplined by Kentfield  
7 Rehabilitation related to her leaving the medication cart unlocked. Said omissions were in  
8 violation of Kentfield's policies and procedures.

9 b. In December 2004, Respondent was disciplined for failing to comply with a  
10 physician's order that required a patient under her care be attached to the Sequential Compression  
11 Device.

12 PRAYER

13 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
14 and that following the hearing, the Board of Registered Nursing issue a decision:

15 1. Revoking or suspending Registered Nurse License Number 163121, issued to  
16 Claudine Soumoy;

17 2. Ordering Claudine Soumoy to pay the Board of Registered Nursing the reasonable  
18 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
19 Code section 125.3;

20 3. Taking such other and further action as deemed necessary and proper.

21 DATED: December 10, 2012 *Stacie Ben*  
22 *for* LOUISE R. BAILEY, M.ED., RN  
23 Executive Officer  
24 Board of Registered Nursing  
25 Department of Consumer Affairs  
26 State of California  
27 Complainant  
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